IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R No.161 of 1989
Date of decision:24.10.2006

Commissioner of Income Tax, Rohtak ...Petitioner

Versus

Dr.S.P.Gupta ...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Yogesh Putney, Advocate for the revenue.

JUDGMENT

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Delhi Bench "D" Delhi arising out of its order dated 18.2.1983 passed in I.T.A.No.4982(Del) of 1981, in respect of the assessment year 1978-79.

> "i) Whether on the facts and in the circumstance of the case, the Tribunal was right in law in holding that the income from Paying Clinic should be taxed under the head 'profits or gains of profession', and not under the head 'salary'?"
>
> ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that there was no relationship of employee and employer, when the assessee worked in the paying clinic run by the Government?

The questions have already been gone into by this Court in the judgment rendered in **Commissioner of Income Tax, Rohtak Vs. Dr.Usha Verma, Rohtak**, ITR No.47 of 1985, decided on 21.11.2001 and the questions have been answered in favour of the revenue and against the assessee.

In view of the above, the questions referred are answered in favour of the revenue and against the assessee.

(Adarsh Kumar Goel)
Judge

October 24 ,2006 **(Rajesh Bindal)**
Pka **Judge**